

R. K. Murphy

JOURNAL

OF THE

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CONVENTION OF VERMONT.

ASSEMBLED AT THE STATE HOUSE.

AT MONTPELIER.

*On the 21st day of February, and dissolved on the 23d
day of February, 1822.*

Published by order of Convention.

DUBLINGTON.....J. SPOONER, PRINTER.
1822.

WINDHAM COUNTY.

<i>Athens</i> , Abraham Ball.	<i>Putney</i> , Theophilus Crawford.
<i>Brattleboro'</i> , Jonas Mann.	<i>Rockingham</i> , Eleazer Albee.
<i>Dover</i> , Amos Rice.	<i>Stratton</i> , Richard Scott.
<i>Dummerston</i> , Marshal Miller.	<i>Somerset</i> , Samuel Worthington.
<i>Grafton</i> , William Stickney, Jun.	<i>Townsend</i> , Dana Bayley.
<i>Guilford</i> , Joseph Boyden.	<i>Westminster</i> , Samuel Mason.
<i>Halifax</i> , Joseph Henry.	<i>Windham</i> , Amos Emery.
<i>Jamaica</i> , Nathaniel Robbins.	<i>Wilmington</i> , Jesse Swift.
<i>Londonderry</i> , Laurence Pierce.	<i>Wardsboro'</i> , Asa Wheelock.
<i>Marlboro'</i> , Hubbard H. Winchester.	<i>Whitingham</i> , John Roberts.
<i>Newfane</i> , Sylvanus Sherwin.	

RUTLAND COUNTY.

<i>Brandon</i> , John Conant.	<i>Pawlet</i> , Benjamin Fitch.
<i>Benson</i> , John Kellogg.	<i>Parkerston</i> , Elisha Eastabrooks.
<i>Chittenden</i> , Woolcott H. Keeler.	<i>Pittsfield</i> , Warner Durkee.
<i>Castleton</i> , John Mason.	<i>Poultney</i> , Asahel Pond.
<i>Clarendon</i> , Linsey Rounds.	<i>Rutland</i> , Robert Pierpont.
<i>Danby</i> , James McDaniels.	<i>Shrewsbury</i> , Zidon Edson.
<i>Fairhaven</i> , John P. Colburn.	<i>Sherborn</i> , Nathaniel M. Fuller.
<i>Hubbardton</i> , Seth Wallace.	<i>Sudbury</i> , Joseph Warner.
<i>Ira</i> , Preserved Fish.	<i>Wells</i> , Aaron Mosher.
<i>Middletown</i> , David G. McClure.	<i>Tinmouth</i> , Estes Barker.
<i>Mount Holly</i> , Abel Bishop.	<i>Wallingford</i> , Eliakim H. Johnson.
<i>Mount Taber</i> , Gideon Taber.	<i>Pittsford</i> , James Barlow.
<i>Orwell</i> , John Jackson.	

WINDSOR COUNTY.

<i>Andover & Weston</i> , Oliver Farrar.	<i>Pomfret</i> , Dexter Hawkins.
<i>Barnard</i> , Thomas Freeman.	<i>Royalton</i> , Elisha Rix.
<i>Bethel</i> , Jonathan Marsh.	<i>Reading</i> , Simeon Buck.

<i>Bridgewater</i> , Isaiah Raymond.	<i>Rochester</i> , John Chaffee.
<i>Cavendish</i> , Uriel C. Hatch.	<i>Sharon</i> , James Parker.
<i>Chester</i> , Joshua Leland.	<i>Springfield</i> , Leonard Walker.
<i>Hartland</i> , Simeon Willard.	<i>Stockbridge</i> , Norman Webber.
<i>Hartford</i> , George E. Wales.	<i>Weathersfield</i> , Amos Hulett.
<i>Ludlow</i> , Asahel Smith.	<i>Woodstock</i> , Jasper Hazen.
<i>Norwich</i> , Paul Brigham.	<i>Windsor</i> , Rufus Root, Jun.
<i>Plymouth</i> , Ephraim Moore.	

ADDISON COUNTY.

<i>Addison</i> , Robert Chambers.	<i>Monkton</i> , Stephen Haight, jr.
<i>Bridport</i> , Phineas Kitchell.	<i>New-Haven</i> , Nathan Brayton.
<i>Bristol</i> , Henry Soper.	<i>Panton</i> , Jonathan Spencer.
<i>Cornwall</i> , Benj. Sanford.	<i>Salisbury</i> , Salathiel Bump.
<i>Ferrisburgh</i> , Rob't. B. Hazard.	<i>Shoreham</i> , Elisba Bascom.
<i>Goshen</i> , Martin Carlisle.	<i>Starksboro'</i> , Elisha Furguson.
<i>Hancock</i> , Charles Church.	<i>Vergennes</i> , Amos W. Barnum.
<i>Kingston</i> , Joel Rice.	<i>Weybridge</i> , Samuel Childs.
<i>Leicester</i> , Henry Olin.	<i>Whiting</i> , Ephraim Moulton.
<i>Lincoln</i> , Ebenezer Durfee.	<i>Warren</i> , Amos Rising.
<i>Middlebury</i> , Ebenezer W. Judd.	

ORANGE COUNTY.

<i>Bradford</i> , John Pickett.	<i>Randolph</i> , Dudley Chase.
<i>Braintree</i> , William Ford, jr.	<i>Strafford</i> , Martin Barrett.
<i>Brookfield</i> , Frederick Griswold.	<i>Thetford</i> , Elijah Hammond.
<i>Corinth</i> , Peter Eaton.	<i>Tunbridge</i> , Samuel Austin.
<i>Chelsea</i> , Thomas Jones.	<i>Topsham</i> , Samuel Butterfield.
<i>Fairlee</i> , Solomon Mann.	<i>Vershire</i> , Nathaniel Jones, jr.
<i>Newbury</i> , James Spear.	<i>Washington</i> , Jacob Bliss.
<i>Orange</i> , Jonathan Emery.	<i>Williamstown</i> , Joel Bass.

The Convention being thus assembled,

On motion of Mr. *Brigham*, the Hon. JONAS GALUSHA, Esquire, was appointed President, pro tempore, WM. A. GRISWOLD, Secretary, pro tem. and SAMUEL AUSTIN, Assistant Secretary, pro tem.

The Convention being thus organized, the several members filed their credentials with the Secretary... and there appearing a sufficient quorum, the President pro tem. took the Chair.

On motion of Mr. *Haight*, Messrs. Olin, Haight, and Allen of Milton, were appointed a Committee to prepare and report rules for the government of the Convention.

The Convention adjourned until 2 o'clock, P. M.

2 o'clock, P. M. The Convention met pursuant to adjournment.

On motion of Mr. *Haight*, Mr. Nathan Barton, elected a Delegate from the town of New-Haven, was permitted to take his seat as a member of the Convention, without producing his written credentials.

On motion of Mr. *Barnum*, the Convention proceeded to the choice of a President, Secretary, and Assistant Secretary, by nomination....and,

The Hon. JONAS GALUSHA, was elected *President*,
WM. A. GRISWOLD, *Secretary*....and
SAMUEL AUSTIN, *Assistant Secretary*.

Mr. *Olin*, from the committee appointed to report rules for the government of the Convention, reported the following, to wit:—

RULE 1st. The Convention shall meet every day, at 9 o'clock in the morning, and at 2 o'clock, P. M. unless otherwise specially ordered.

2nd. The President shall take the chair at the hour to which the Convention is adjourned....and when a quorum is formed, shall call to order, and proceed to business by directing the Journal of the preceeding day to be read.

3d. The President shall preserve order; and, in preference to any other member, may speak on any question of order, and shall decide all questions of order....subject to an appeal to the Convention.

4th. The President, in case of disturbance in the gallery or lobby, may cause the same to be cleared.

5th. No member shall absent himself from the Convention, except in case of indisposition, without leave of absence.

6th. The President shall nominate all Committees, subject to the controul of the Convention.

7th. No member, in the minority on any vote, can move a reconsideration thereof.

8th. The yeas and nays on any question, shall be taken, when demanded by a member, before the vote is declared....and every member present shall vote, unless excused by the Convention, or unless such member was absent when the question, on which the vote is called, was stated.

9th. No person shall be admitted to a seat on the floor of the Convention, unless introduced by a member, except Judges of Courts, Marshal, Mem-

bers of Congress, Secretary of State, Treasurer, Clergy, and the late members of the Council of Censors.

10th. The President shall apply to the Sheriff of the County of Washington, for such officers to attend upon the Convention as he shall think necessary, and shall appoint a Doorkeeper.

11th. A motion to adjourn shall always be in order....and no member shall leave his seat, until a vote of adjournment is declared by the President.

12th If any member transgress the rules of the Convention, the President, or any other person, may call to order, and the member so called to order, shall immediately sit down, or appeal to the Convention....which appeal shall be decided without debate; and no member shall speak more than twice to the same question, without permission from the Convention.

Which report was read and accepted.

The adoption of the rules being under consideration....

Mr. *Barnum*, moved to amend the first rule, by varying the time of the meeting of the Convention, so as to have but one session in a day, to meet at 10 o'clock, in the morning, and continue in session until 4 o'clock, P. M.

The Convention refused to amend, and the rules were adopted.

On motion of Mr. *Crawford*, the Rev. CHESTER WRIGHT was appointed Chaplain of this Convention, and Mr. Wooster appointed a committee to notify Mr. Wright of his appointment.

The following communication was received from his Excellency the Governor...viz:

Sir,

In obedience to the request of the Council of Censors, I herewith transmit to you, to be laid before the Convention of the people of the State, assembled at Montpelier on this 21st day of February, 1822, being the third Thursday of the month, a certified copy of the Articles of Amendment, proposed by the Council of Censors, to the Constitution, together with the subjoined papers.

I am, sir, very respectfully,

your obedient servant,

RICHARD SKINNER,

State of Vermont, }
Manchester, Feb. 21, 1822. }

To the President of the Convention.

ARTICLES OF AMENDMENT

*To the Constitution of the State of Vermont, proposed by
by the Council of Censors, on the 24th day of March,
A. D. 1821.*

ARTICLE I.

The Supreme Legislative power of this State, shall be exercised by the House of Representatives and Council, which, together, shall be stiled "General Assembly of the State of Vermont;" and each of which shall have a negative upon the other, and exercise the like powers in all acts of legislation. But no bill, or resolution, which shall have been passed by one branch of the Legislature, shall have the effect of a law without the concurrence of the other.... *Provided*, That all bills for the levying of taxes, or the appropriation of money, shall originate in the House of Representatives.

ARTICLE II.

From and after the day next preceding the second Thursday in October, in the year one thousand eight hundred and twenty-three, the House of Representatives shall consist of one member for every two thousand inhabitants within the State, and be elected by the Freemen on the first Tuesday of September, in the year above mentioned; and on the first Tuesday of September, annually, forever thereafter.

And from and after the day first above mentioned, the Council shall consist of one member from each of the counties in the State; one of whom shall be elected annually by the Freemen of each county on the day of the election of Representatives.

The Legislature shall, at its session in October, in the year one thousand eight hundred and twenty-two, apportion the Representatives among the several counties, as near as may be, according to the population in each; and direct the manner of their election, and that of Councillors; and at the end of every ten years thereafter, shall make a new apportionment of Representatives.....*Provided*, That the number of Representatives, apportioned to any county shall never be less than three, nor greater than the whole number of organized towns within such county; and *Provided further*, That when the population of the State shall have increased to the number of three hundred thousand, the Legislature may so alter the apportionment of Representatives, as to reduce the whole number to one hundred and twenty, and from time to time, every ten years thereafter, so that the number shall never exceed one hundred and fifty.

ARTICLE III.

No member of the House of Representatives, or of the Council, shall, during the period for which he shall have been elected, be appointed to the office of a Judge of the Supreme or County Court, Judge of

Probate, Sheriff, High-Bailiff, State's Attorney, Justice of the Peace, or Superintendant, or any other officer of the State's Prison.

ARTICLE IV.

The Supreme Executive power of the State, shall be exercised by the Governor, (or in case of his absence or disability, by the Lieutenant Governor,) who shall exercise all the powers vested in, and perform all the duties enjoined upon the Governor and Council, by the eleventh section, of the second chapter of the Constitution; except that he shall not sit as a judge to "hear and determine on impeachments," (which shall be heard and determined by the Council)....Nor shall he, without the advice and consent of the Council, "grant pardons or remit fines;"....."lay embargoes or prohibit the exportation of any commodity," Neither shall he command the forces of the State in person, except advised thereto by the Council, and then, only so long, as it shall approve thereof. The Lieutenant Governor, when present, shall by virtue of his office, preside in the Council, and have a casting vote, and no other; but in his absence the Council shall elect one of its members to preside, who shall vote as other members.

ARTICLE V.

Judges of the Supreme Court, who shall be elected subsequent to the adoption of this article, shall severally hold their offices for the term of seven years from the date of their election; but may be removed by impeachment, or by resolution adopted by a vote of the House of Representatives and Council, in joint meeting, a quorum of each being present, and two thirds of the whole number present, voting in the affirmative; which resolution shall be entered on the Journal of the House of Representatives, with the Yeas and Nays thereon.

Adopted in Council of Censors,

March 24, A. D. 1821.

WILLIAM HUNTER, *Pres.*

Attest..... JOSHUA Y. VAIL, *Secretary.*



*Sections of the Constitution of the State of Vermont,
which will be altered or superseded, by the adoption of
the amendments, proposed by the Council of Censors.*

SECTION II.

The Supreme Legislative power shall be vested in a House of Representatives of the freemen of the Commonwealth, or State of Vermont.

SECTION III.

The Supreme Executive power shall be vested in a Governor, or, in his absence, a Lieutenant Governor, and Council.

SECTION VII.

In order that the freemen of this State might enjoy the benefit of election as equally as may be, each town within this State that consists, or may consist, of eighty taxable inhabitants, within one septenary or seven years next after the establishing this Constitution, may hold elections therein, and choose each two Representatives; and each other inhabited town in this State, may in like manner choose each one Representative, to represent them in General Assembly, during the said septenary or seven years. And after that, each inhabited town may, in like manner, hold such election, and choose one Representative, forever thereafter.

SECTION VIII.

The House of Representatives of the freemen of this State shall consist of persons most noted for wisdom, and virtue, to be chosen by ballot by the freemen of every town in this State, respectively, on the first Tuesday of September, annually, forever.

SECTION IX.

The Representatives so chosen (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two thirds of the members elected shall be present,) shall meet on the second Thursday of the succeeding October, and shall be styled, *The General Assembly of the State of Vermont*.....They shall have power to choose their Speaker, Secretary of State, their Clerk, and other necessary officers of the House; sit on their own adjournments; prepare bills and enact them into laws; judge of the elections and qualifications of their own members: They may expel members, but not for causes known to their constituents antecedent to their election; they may administer oaths and affirmations in matters depending before them; redress grievances; impeach State criminals; grant charters of incorporation; constitute towns, boroughs, cities, and counties: They may annually, on their first session after their election, in conjunction with the Council (or oftener if need be) elect Judges of the Supreme and several County and Probate Courts, Sheriffs, and Justices of the Peace; and also, with the Council, may elect Major-Generals and Brigadier-Generals, from time to time, as often as there shall be occasion; and they shall have all other powers necessary for the Legislature of a free and sovereign State. But they shall have no power to add to, alter, abolish, or infringe, any part of this Constitution.

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SECTION X.

The Supreme Executive Council of this State shall consist of a Governor, Lieutenant Governor, and twelve persons, chosen in the following manner, to wit:—The freemen of each town shall, on the day of the election for choosing Representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the Constable, who shall seal them up and write on them, "*Votes for Governor,*" and deliver them to the Representative chosen to attend the General Assembly....And at the opening of the General Assembly there shall be a committee appointed, out of the Council and Assembly, who after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort, and count the votes for the Governor, and declare the person who has the major part of the votes, to be Governor for the year ensuing. And if there be no choice made, then the Council and General Assembly, by their joint-ballot shall make choice of a Governor. The Lieutenant Governor, and Treasurer, shall be chosen in the manner above directed. And each freeman shall give in twelve votes for twelve Councillors, in the same manner, and the twelve highest in nomination shall serve, for the ensuing year, as Councillors.

SECTION XI.

The Governor, and in his absence the Lieutenant Governor, with the Council, (a major part of whom,

including the Governor or Lieutenant Governor, shall be a quorum to transact business) shall have power to commission all officers, and also to appoint officers, except where provision is or shall be otherwise made by law, or this frame of government; and shall supply every vacancy in any office, occasioned by death or otherwise, until the office can be filled in the manner directed by law, or this Constitution: They are to correspond with other states; transact business with officers of Government, civil and military, and to prepare such business as may appear to them necessary to lay before the General Assembly: They shall sit as judges to hear and determine on impeachments, taking to their assistance, for advice only, the Judges of the Supreme Court; and shall have power to grant pardons and remit fines, in all cases whatsoever, except in treason, and murder, in which they shall have power to grant reprieves, but not to pardon until after the end of the next session of Assembly; and except in cases of impeachment, in which there shall be no remission or mitigation of punishment, but by act of legislation: They are to take care that the laws be faithfully executed: They are to expedite the execution of such measures as may be resolved upon by the General Assembly; and they may draw upon the Treasury for such sums as may be appropriated by the House of Representatives: They may also lay embargoes, or prohibit the exportation of any commodity for any time not exceeding thirty days, in the recess of the House only. They may grant such li-

ences as shall be directed by law; and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be Captain-General and Commander in Chief of the forces of the State, but shall not command in person except advised thereto by the Council, and then only so long as they shall approve thereof. And the Lieutenant Governor shall, by virtue of his office, be Lieutenant-General of all the forces of the State. The Governor, or Lieutenant Governor, and the Council, shall meet at the time and place with the General Assembly: the Lieutenant Governor shall, during the presence of the Commander in Chief vote and act as one of the Council; and the Governor, and in his absence the Lieutenant Governor, shall by virtue of their offices, preside in Council, and have a casting but no other vote. Every member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any Councillor may enter his dissent, with his reasons to support it. And the Governor may appoint a Secretary, for himself and Council.

SECTION XVI

To the end that laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations as much as possible

prevented, all bills which originate in the Assembly shall be laid before the Governor and Council, for their revision and concurrence, or proposals of amendment, who shall return the same to the Assembly, with their proposals of amendments if any, in writing; and if the same are not agreed to by the Assembly, it shall be in the power of the Governor and Council to suspend the passing of such bills until the next session of the Legislature.....*Provided*, That if the Governor and Council shall neglect or refuse to return any such bill to the Assembly, with written proposals of amendment, within five days, or before the rising of the Legislature, the same shall become a law.

SECTION XXIV.

Every officer of State, whether Judicial or Executive, shall be liable to be impeached by the General Assembly, either when in office or after his resignation, or removal, for mal-administration. All impeachments shall be before the Governor and Council, who shall hear and determine the same, and may award costs; and no trial or impeachment shall be a bar to a prosecution at law.

THE UNANIMOUS ADDRESS

Of the Council of Censors, Adopted March 26, 1821.

TO THE PEOPLE OF THE STATE OF VERMONT.

RESPECTED FELLOW CITIZENS.

THE Council of Censors, elected by the Freemen on the last Wednesday of March, in the year of our Lord one thousand eight hundred and twenty, having unanimously determined in favour of calling a Convention, to pass upon sundry amendments to the Constitution.....They now proceed to discharge a duty which they owe to their constituents, by submitting the amendments to their consideration; specifying the parts of the present Constitution, which will be affected by their adoption, and by suggesting *some* of the reasons, which have induced the Council to propose them.

The adoption of the first article of the amendments, will alter the second, and ninth sections of the second chapter of the Constitution, and entirely supersede the sixteenth section of the same chapter.

The seventh section of the same chapter will be superseded, and the eighth partially changed by the adoption of the second article. And the adoption of either one, or both, of the two first articles of the amendments, will affect the tenth section of the same chapter.

The third amendment embraces an entirely new principle, and does not affect any part of the present Constitution.

The adoption of the fourth article, will supersede the third section of the second chapter, and alter the provisions of the eleventh and twenty-fourth sections, and the provisions of the 9th section will be further changed by the adoption of the fifth article of the amendments.

None, *Fellow Citizens*, can be more ready than the Council, to admit, that the provisions of a Constitution should not be changed, without strong and manifest reasons for such change; and hence the present experiment has not been hazarded, without much deliberation, and a thorough conviction that such reasons do exist, for embracing the present season of tranquility, to attempt an improvement in our *Political Charter*, which is universally admitted to be more or less defective.

The subject has been approached with caution, and consequently but few amendments have been proposed; and those few so framed, as to preserve, as far as possible, the original features of the Constitution.

That instrument provides in the sixteenth section of the second chapter that "to the end that laws before they are enacted may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills which originate in the Assembly, shall be laid before the Governor and Council for their revision and concurrence, or proposals of amendment."

The authority here given to the Governor and Council, to concur in the passing of bills, either with or without amendments, seems necessarily to include an authority, to with-hold such concurrence. And such undoubtedly would have been the construction given to it, by every department of the government, and every citizen of the State; and have prevented many severe and humiliating contests between the House and the Council, but for the further *obscure* provisions of the section referred to, to wit, "who (the Governor and Council) shall return the same to the Assembly, with their proposals of amendment, if any, in writing; and if the same are not agreed to by the Assembly, it shall be in the power of the Governor and Council to suspend the passing of such bills until the next session of the Legislature."

Hence it is, that while it is contended by some, that the Governor and Council have power to refuse *absolutely*, their assent to a bill, which in their opinion is wrong in *principle*, and not susceptible of being improved by amendment; others deny to them any authority, but to *concur*, or propose amendments. Under this latter construction, which we have been reluctantly compelled to believe a correct one; should a bill be passed by the House of Representatives, (no matter under what circumstances, or what state of public excitement,) which in the best judgment of the Governor and Council is wrong in principle, and ought not to pass under any possible modification of its provisions; they have no alternative left to them

but to lay aside the character of consistent Legislators; and propose such alterations under the *name* of amendments, as shall be so obnoxious to the House, that it will refuse its assent thereto.

In which event, and in no other, the Council can prevent the passage, by suspending it till the next session; till a new election of members shall have intervened.

Few, if any, it is believed, will deny, that the powers of legislation should be exercised by two distinct branches; but should proof of this position be desired, it may be found in the circumstance of unceasing change, to which the laws of the State have been subjected, and in the institutions of other States, which have been dictated by the greatest experience, and the most brilliant talents of the country.

And although some difference of opinion has existed among the members of the Council of Censors, as to the extent of the powers, which should be exercised by the less numerous branch of the Legislature, as well as in relation to the provisions of some other of the amendments; all have concurred in this, that they should have an unqualified negative upon the other House. Under a belief however, that any discrimination of powers between the two, would be liable to misconstruction, it has been determined by the board, that the like powers should be exercised by each; and with a view to that object, as well as to obviate the difficulties above suggested, the first article of the amendments has been framed.

The second, of the proposed amendments, provides for the apportionment of Representatives, among the several counties, according to the population in each, with some trifling exceptions ; and upon such a ratio, as will greatly diminish the present number. It further provides, that instead of the present Council, consisting of twelve members elected by a general ticket throughout the State, it shall consist in future, of one member from each county.

At an early period of our history, when the present Constitution was formed, and when but few towns in the State were inhabited, the convenience of sending one member from each town, small as the whole number then was ; undoubtedly overbalanced all of the *then* objections, to the inequality in the representation ; And induced the statesmen of that period to leave to their successors, the adoption of such regulations on the subject, as the future, altered condition of the State might suggest. The population of the State, has happily progressed, till under the provisions of the Constitution, more than two hundred and ten members have had a seat in the House at the same session ;—a number which is liable to be soon, considerably enlarged, by the organization of new towns. Several members have come from towns, having less than ten Freemen, and which have not paid into the Treasury annually, one half the amount drawn from it by their members ; nor will the towns in the different sections of the State, ever approximate in any considerable degree, towards an equality in

population or wealth ; *nature* herself has forbidden it.

Taking the Census of 1810 for the basis as to population and the list of 1818 for the amount of State tax at one cent on the dollar ; and it is ascertained that in the last mentioned year, one entire county sent one member to the Assembly, for every forty four dollars paid into the treasury, and for every three hundred and eighty six inhabitants : While another sent only one member for every two hundred and fifty-four dollars paid in, and for every nineteen hundred and thirty-seven inhabitants. And there are many instances, where comparing one town with another in the same county, the inequality is much greater.

With a knowledge of this inequality in the representation ; the loss of time to the community, and the inconvenience and expense attending the transaction of business in so large an assembly ; where popular excitement, if it must unfortunately exist, will be felt much in proportion to the magnitude of the body ; we have been unable to resist the belief, that the public interest, and the future harmony of the State, would be greatly promoted by the change proposed : a change, which, while it will probably reduce the number of representatives to about one hundred and twenty ; will give to each section of the State, a fair proportion.

In connexion with this provision, as has before been observed, is another, authorising the freemen of each county, to elect one member of the Council ; se-

giving to each of the respective counties, an equal influence in that branch of the Legislature. That this latter provision allows of a great inequality of representation in the Council, is readily admitted ; but it differs but little from what, in practice and from a spirit of courtesy, has hitherto existed : and is believed to be far less objectionable, than that which at present exists in the other branch ; accompanied, as that is, with such overwhelming numbers.

It is apprehended, that there are few, if any, who would not prefer, that the Council should be elected by districts, rather than by a general ticket.

But, should the State be formed into districts of equal population, many inconveniences would be experienced. In some cases, two, and probably more Councillors would be citizens of the same county ; while several others would be destitute of a member. A further inconvenience would be felt, from having counties divided, and subdivided, in the formation of districts. Each county must be regarded as a kind of distinct community ; the citizens of which, have, to a certain extent, common interests and affections : and it is deemed proper, that they should be permitted to elect a Councillor, without any interference from their neighbors. By this organization, the thinly populated counties will find an equivalent, for their loss of numbers, in the House of Representatives.

The third of the proposed amendments, excludes the members of both branches of the Legislature, during the period for which they were elected, from be-

ing appointed to certain civil offices within their gift. This provision particularly so far as relates to judicial Officers, is believed to be necessary, to give full effect to the sixth section of the second chapter of the Constitution ; which declares, that “ the Legislature Executive, and Judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.” While we have been unable to perceive any sound objection, which *can* be urged against this amendment ; we have supposed, there were such obvious reasons in its favor, and such a manifest fitness in the principle, as to ensure to it a favorable reception.

The citizen, who may be clothed with the high prerogative of a *Legislator*, at a period when it shall suit his convenience to accept the trust, most assuredly will not feel, that his rights are abridged, because, while acting in that capacity, he cannot be elected a Judge, a Sheriff, or a Justice of the Peace. And it may with confidence be asked, whether it is not in accordance with the soundest maxims of republicanism, that the Legislator, should be divested of other offices, and of all tempting facilities for obtaining them : and that the framer of the laws, should not be appointed to enforce their execution.

The fourth article of the amendments, vests in the Governor, the Executive functions of the State ; except that he shall not sit as a Judge, to “ hear and determine on impeachments ;” nor without the advice and consent of the Council, “ grant pardons or

remit fines,"—"lay embargoes, or prohibit the exportation of any commodity." And that as commander in chief of the forces of the State, he "shall not command in person, except advised thereto by the Council."

Such are the provisions of the present Constitution, that the Governor cannot legally perform the most trifling official duties, without the concurrence of the Council ;—without their concurrence, he cannot correspond with other States ; or with the officers of this ; nor even make a communication to the Assembly. And it is respectfully submitted, whether experience has not abundantly shown, that the ordinary executive duties can with much more convenience and with perfect safety to the public interests, be performed by the Governor, and upon his own responsibility : Particularly, as he is annually elected by the very people, who are to be affected by his acts. Separated from the Council, as is proposed by the article referred to, and relieved from the details of legislation ; he will, during the session of the Assembly, have some leisure for reflection, and to mature and "prepare such business, as may appear necessary to lay before" that body :—to seek for, and obtain such information, as will enable him to secure the better execution of the laws, or to suggest their defects.

It is provided by the fifth and last article of the amendments, that the Judges of the Supreme Court shall be elected for the term of seven years ; remov-

able by impeachment, or a joint vote of both branches of the Legislature, two thirds voting in the affirmative. There are certainly few subjects, and probably none, on which the opinions of the citizens of the United States have been more divided, than the term of office most suitable for the Judges of the highest tribunals. Some contend for annual elections, and some for a term of years; but probably much the largest portion, for the term of good behaviour. All agree, that the organization, which shall secure the greatest integrity and ability, in the discharge of official duties, is the best; as, while it will ensure dispatch, it will promote a uniformity of decisions; without which, the laws can neither be rendered certain, or the life, liberty, or property of the citizens, secure. It is readily admitted, that much may be said in favor of annual elections, as well as for the term of good behaviour; while it is believed by the Council, that many objections may be urged against both. Hence it is humbly conceived, that an election for a term of years, sufficient to enable the person elected, to have his character as a Judge well known, will best promote the public welfare.

If, when that character shall have become too well known to be mistaken by the community, his public labors shall be approved; but little doubt can exist of a re-election, at the end of his term; while, should they be *disapproved*, his place can be filled, as it ought, by another; with far less inconvenience, than his removal procured, if elected for good behaviour.

It is certainly due to the citizen, who shall have been invited from other avocations to discharge the highly responsible, and critical duties of the bench; that while his best efforts shall be employed in the service of his country, he shall be so far removed from the influence of prejudice or partiality, as to be morally secure in his place; till his fellow citizens shall have had an opportunity, to form a fair and unbiased estimate of his qualifications. If after this, it shall be made his duty to retire at the end of his term, no injustice will have been done on the one hand, or public injury on the other:—and no reasonable complaint will be heard.

These considerations, with many others, which it is presumed will readily occur, have induced a belief in the Council, that a regard for the respectability of our institutions, and the best interests of the State, recommend the adoption of the article.

The Council had felt a strong disposition, so to frame the amendments, that either one, the whole, or any number of them may be adopted, without producing any incongruity in the system;....and it is confidently believed that the object has been fully accomplished; unless by the adoption of the first article, and the *rejection* of the fourth, there should be such an increased mixture of legislative powers, with the executive duties, as to produce an incongruity, greater in *degrees* than at present, with the sixth section of the second chapter of the Constitution.

It is believed, however, that no objection will be

urged against the fourth article, by the Board which shall have adopted the first.

Without further remarks, the Council *very respectfully*, submit the amendments to the consideration of their *Fellow Citizens*, in the humble hope, that the present "era of good feeling," will secure for them, a *candid*, and impartial examination; and that such a decision will be ultimately pronounced upon them, as will best promote the happiness and prosperity of the State.

RESOLVED,

That the five proposed amendments to the Constitution, agreed to by the Council, be signed by the President and Secretary, and proposed to the People, for their consideration and adoption.... And that the said amendments, together with the second, third, seventh, eighth, ninth, tenth, eleventh, sixteenth and twenty-fourth sections of the second chapter of the Constitution, be annexed to, certified by the Secretary, and published with the foregoing Address; together with the *Ordinance* for calling a Convention.

The foregoing Resolution, read and adopted, March 26, A. D. 1821.

[Here follows the Ordinance, calling a Convention, not copied into the Journal.]

In Council of Censors,)

March 26, A. D. 1821. }

Resolved... That the Secretary be directed to transmit to his Excellency, the Governor of this State, a certified copy of the articles of amendment, proposed by this Council to the Constitution, and the papers thereto subjoined; and signify to him the request of the Council, that he will cause the same to be laid before the Convention, when assembled at Montpelier, on the third Thursday of February, A. D. 1822.

Adopted.

Attest, JOSHUA Y. VAIL, *Secretary.*

The above is a true copy of the Resolution passed by the Council; and the foregoing "a certified copy of the articles of amendment proposed by the Council" and "the papers thereto subjoined," referred to in the said Resolution.

Attest.

JOSHUA Y. VAIL, *Secretary.*

Which said communication, together with the aforesaid subjoined papers, containing the proposed Articles of Amendment, and the several articles of the existing Constitution, which would be altered or superceded by said Amendments, together with the address of the said Council of Censors to the people of this state, were read....When, on motion of Mr. *Haight*, said communication from his Excellency, together with the said Articles of Amendment, and subjoined papers, were referred to a committee of the whole house, and made the order of the day for tomorrow morning, at the opening of the Convention.

Convention adjourned.

Friday, February 22, 1822....9 o'clock, A. M.

The Convention met pursuant to adjournment.

The Journal of yesterday being read....Mr. *Hatch* called for the order of the day, on the communication from his Excellency the Governor, transmitting the Articles of Amendment to the Constitution.... And the Convention resolved itself into a committee of the whole house, to consider the said proposed Amendments to the Constitution, &c.

Mr. *Brigham* was called to the chair; and after some time being spent upon the matters referred....

It was moved that the committee rise, report progress, and request leave to sit again.

The committee then rose.

Mr. PRESIDENT resumed the chair....Mr. *Brigham* reported from the committee that they had made pro-

gress in the matters referred, and had directed him to move that they may have leave to sit again.... Whereupon leave was granted.....and the Convention adjourned till 2 o'clock, P. M.

Friday, February 22, 1822.... 2 o'clock, P. M.

The order of the day being read, the Convention resolved itself into a committee of the whole house, to consider of the proposed Amendments, &c....and after some time being spent therein...

On motion of Mr. *Chace*, the committee rose and reported progress....Mr. PRESIDENT resumed the chair.

Mr. *Brigham*, reported from the committee, that they had had under consideration, the several proposed Articles of Amendment to the Constitution, but do not agree to recommend to the Convention, the adoption of any Article of the same, and submit the the said Amendments to the consideration of the Convention.

The Convention resumed the consideration of the proposed Amendments....and

On motion of Mr. *Brigham*, the first Article of the Amendments was read; and the question being put upon its adoption, it passed in the negative.

The second Article being read, Mr. *Barnum* moved that the same be adopted.

The yeas and nays being demanded by Mr. *Stone*, it passed in the negative, as follows....viz:

YEAS..Messrs. Bascom, Barnum, Brownell, Crawford, Felton, Fitch of H. Park, Henry, Leland, Mann of Brattleboro', Newell, Pierpont, Roberts, Root, Winchester—14.

NAYS....Messrs. Albee, Austin, Ambler, Allen of Milton, Allen of North Hero, Aiken, Aldrich, Averill, Bradley, Brookes, Ball, Boyden of Guilford, Bayley, Bishop, Barker, Barlow, Brigham, Buck, Bump, Boyden of Montpelier, Barton, Barrett, Butterfield, Bliss, Bass, Bryan, Butler of Waterbury, Brownson, Barney, Bowman, Babcock, Beckwith, Bell, Benton, Butler of Essex, Bellows, Brown of Swanton, Brown of G. Isle, Baxter, Berry, Canfield, Conant of Brandon, Colburn, Chaffee, Chambers, Carlisle, Church, Childs, Chace, Chittenden, Cillry, Crosssett, Chamberlain of Middlesex, Clapp, Camp, Carlton, Chamberlain of Albany, Crane, Conant of Troy, Coe, Carron, Dudley, Durkee, Durfee, Duncan, Denison, Drew, Damon, Dee, Dodge, Emery of Windham, Estabrooks, Edson, Eaton, Emery of Orange, Elmore, Fish, Fitch of Pawlett, Fitch of Sheldon, Fuller, Farrar, Freeman, Ferguson, Ford, Fletcher, Fellows, *President*, Griswold of Brookfield, Griswold of Burlington, Gates, Hollister, Hatch, Hawkins, Hulett, Hazen, Hazard, Haight, Hammond, Hazeltine, Harding, Hibbard, Hall, Hugh, Ingals, Ide, Ingham, Jackson, Johnson of Wallingsford, Judd, Jones of Chelsea, Jones of Vershire, Jones of Waitsfield, Johnson of Irasburgh, Kellogg, Keeler, Kitchell, Kelton, Kimball, Leavenworth, Luce, Laughlin, Leavens of Berkshire, Leavens of Morgan, Merrill, Merchant, Miller, Mason of Westminster, Mason of Castleton, McDaniels, McClure, Mosher, Marsh, Moore, Moulton, Mann of Fairlee, Meech, Newcomb, Noyes, Olin, Phillips, Pierce Pond, Parker, Pickett, Page, Phelps, Rice of Dover, Robbins, Rounds, Raymond, Rix, Rice of Kingston, Rising, Ruggles, Royce of Richford, Royce of St. Albans, Robinson, Rawson, Sykes, Sheldon, Sanderson, Stickney, Sherwin, Scott of Craftsbury, Swift, Smith of Ludlow, Smith of Barre, Smith of Montgomery, Smith of Brunswick, Soper, Sanford, Spencer, Spear, Shedd, Shattuck, Stockwell, Scott of Stratton, Stone, Stoughton, Sabin, Spaulding, Tutbill, Taber, Walker of Reedsboro', Worthington, Wheelock, Wallace of Hubbardton, Warner, Willard, Wales, Walker of Springfield, Webber, Whitcomb, Wallace of Berlin, Wilder, Wooster, Willoby, Woodmansee, Warren, Vance, Vincent, Vail, Vilas.—202.

The third Article being read, Mr. *Barnum* moved that the same be adopted, and demanded the yeas nays to be taken....The question was put, and it passed in the negative, as follows:....

YEAS....Messrs. Allen of Milton, Aldrich, Bayley, Buck, Bascom, Barnum, Boyden of Montpelier, Butterfield, Brownson, Brownell, Bowman, Babcock, Beckwith, Bell, Benton, Butler of Essex, Bellows, Baxter, Crawford, Church, Chace, Clapp, Camp, Crane, Duncan, Denison, Drew, Damon, Dee, Dodge, Eaton, Emery of

Orange, Elmore, Fitch, of Sheldon, Fletcher, Fellows, Felton, Griswold of Brookfield, Griswold of Burlington, Henry, Hulett, Hazard, Hammond, Hazeltine, Ingals, Johnson, of Wallingsford, Judd, Jones of Chelsea, Jones of Waltsfield, Kellogg, Kimball, Leavenworth, Leland, Luce, Laughlin Mann of Brattleboro', Miller, Mason of Westminster, McDaniels, Mann of Fairlee, Merch, Newell, Noyes, Pierpont, Parker, Pickett, Page, Robbins, Roberts, Root, Royce of St. Albans, Robinson, Stickney, Sberwin, Scott of Craftsbury, Smith of Barre, Spear, Shedd, Shattuck, Stoughton, Sabin, Winchester, Worthington, Wheelock, Willard, Wales. Wallace of Berlin, Wilder, Wooster, Willoby, Vincent, Vail, Vilas—93.

NAYS....Messrs. Allen, Austin, Ambler, Aiken, Averill, Allen of North Hero, Bradley, Brookes, Ball, Boyden of Guilford. Bishop, Barlow, Brigham, Bump, Barton, Barrett, Bliss, Bass, Bryan, Butler of Waterbury, Barney, Brown of Swanton, Brown of G. Isle, Berry, Conant of Brandon, Colburn, Chaffee, Chambers, Cartisle, Childs, Chittenden, Cilley, Crossett, Chamberlain of Middlesex, Carlton, Chamberlin of Albany, Conant of Troy, Coe, Carron, Dudley, Durkee, Durfee, Emery of Windham, Estabrooks; Edson, Fish, Fitch of Pawlett, Fuller, Farrar, Freeman, Ferguson, Ford, *President*, Gates, Hollister, Hatch, Hawkins, Hazen, Haight, Harding, Hibbard, Hall, Hugh, Ide, Ingham, Jackson, Jones of Vershire, Johnson of Irasburgh, Keeler, Kitchell, Kelton, Leavens of Berkshire, Leavens of Morgan, Merrill, Merchant, Mason of Castleton, McClure, Mosher, Marsb, Moore, Moulton, Newcomb, Olin, Phillips, Pierce, Pond, Phelps Rice of Dover, Rounds, Raymond, Rix, Rice of Kingston, Rising, Ruggles, Royce of Richford, Rawson, Sykes, Sheldon, Sanderson, Swift, Smith of Ludlow, Smith of Montgomery, Smith of Brunswick, Soper, Sanford, Spencer, Stockwell, Scott of Stratton, Stone, Spaulding, Tuthill, Taber, Walker of Keedsboro', Wallace of Hubbardton, Warner, Walker of Springfield, Webber, Whitcomb, Woodmansee, Warren, Vance—121.

The fourth Article being read, the question was put upon its adoption, and it passed in the negative.

The fifth Article being read, Mr. *Fletcher* moved that the same be adopted, and demanded the yeas and nays to be taken....The question was put, and it passed in the negative as follows:....

YEAS....Messrs. Allen of Milton, Bump, Bascom, Bowman, Brownell, Bell Baxter, Fitch of Sheldon, Fletcher, Griswold of Burlington, Henry, Kimball, Leavenworth, Mann, of Brattleboro', Newell, Pierpont, Royce of Richford, Royce of St. Albans, Shedd—19.

NAYS....Messrs. Albee, Austin, Ambler, Aiken, Aldrich, Averill, Allen of N. Hero, Bradley, Brookes, Ball, Boyden of Guilford, Bayley, Bishop, Barker, Barlow, Brigham, Buck, Boyden of Montpelier, Barton, Barrett, Butterfield, Bliss, Bass, Bryan, Butler of Waterbury, Brownson, Barney, Bowman, Babcock, Beckwith, Benton, Butler of Essex, Bellows, Brown of Swanton, Brown of G. Isle, Berry, Crawford, Conant of Brandon, Colburn, Chaffee, Chambers, Carlisle, Church, Childs, Chace, Chittenden, Cillèy, Crossett, Chamberlain of Middlesex, Clapp, Camp, Carlton, Chamberlain of Albany, Crane, Conant of Troy, Coe, Canon, Dudley, Durkee, Durfee, Duncan, Denison, Drew, Damon, Dee, Dodge, Emery of Windham, Edson, Eaton, Emery of Orange, Elmore, Fish, Fitch of Pawlet, Fuller, Farrar, Freeman, Ferguson, Ford, Fellows, Felton, Fitch of Hyde-park, *President*, Griswold of Brookfield, Hollister, Hatch, Hawkins, Hulett, Hazen, Hazard, Haight, Hammond, Hazeltine, Harding, Hibbard, Hall, Hugh, Ingalls, Ide, Ingham, Jackson, Johnson of Wallingsford, Judd, Jones of Chelsea, Jones of V. Jones of Waitsfield, Johnson of Irasburgh, Kellogg, Keeler, Kitchell, Kelton, Leland, Luce, Laughlin, Leavens of Berkshire, Leavens of Morgan, Merrill, Merchant, Miller, Mason of Westminster, McDaniels, McClure, Mosher, Marsh, Moore, Moulton, Mann of Fairlee, Meech, Newcomb, Noyes, Olin, Phillips, Pierce, Pond, Parker, Pickett, Page, Phelps, Rice of Dover, Robbins, Roberts, Rounds, Raymond, Rix, Root, Rice of Kingston, Rising, Ruggles, Robinson, Rawson, Sykes, Sheldon, Sanderson, Stickney, Sherwin, Scott of Craftsbury, Swift, Smith of Ludlow, Smith of Barre, Smith of Montgomery, Smith of Brunswick, Soper, Sanford, Spencer, Spear, Stockwell, Scott of Stratton, Stone, Stoughton, Sabin, Spaulding, Tuthill, Taber, Walker of Reedsboro', Winchester, Worthington, Wheelock, Wallace of Hubbardton, Warner, Willard, Wales, Walker, of Springfield, Webber, Whitcomb, Wallace of Berlin, Wilder, Wooster, Willoby, Woodmansee, Warren, Vance, Vincent, Vail, Vilas—193.

Mr. *Keeler* introduced the following resolution:....

Montpelier, February 22, 1822.

Resolved....That the Convention meet in the State House, at six o'clock to-morrow morning, for the purpose of dissolving said Convention....Read, and ordered to lie on the table.

On motion of Mr. *Haight*, a committee consisting of one member from each County, was appointed to make up, receive and pay out the debenture of the members of this Convention.

Members chosen.....Messrs. Merrill, Mann of Brattleboro', Pierpont, Wales, Bascom, Jones of Chelsea,

Ambler, Fletcher, Smith of Barre, Hazeltine, Kimball, Brown of G. Isle, and Gates.

Mr. *Olin* introduced the following resolution, which was read and adopted.

In Convention, Montpelier, February 22d, 1822.

Resolved...That the Secretary procure six hundred copies of the Journal of this Convention to be immediately printed, and that the same be distributed by the Sheriffs as follows, to wit:....Two Copies to his Excellency the Governor, two to his Honor the Lieut. Governor, five to the Secretary of State, five to the Secretary of the Governor and Council, ten to the Clerk of the General Assembly, one to each of the late members of the Council of Censors, one to each of the members of this Convention, and one to each of the Town Clerks in this State.

The Resolution introduced by Mr. *Keeler*, was called up, and adopted.

The Convention adjourned until 6 o'clock tomorrow morning.

Saturday, February 23d, 1822 6 o'clock A. M.

The Convention met pursuant to adjournment.

The Journal of yesterday was read.....and, after a solemn, and impressive address to the Throne of Grace by the Rev'd Chaplain, the Convention, having completed the business assigned them, was dissolved by an adjournment without day.

STATE OF VERMONT.

I hereby certify that the foregoing is a true Journal of the Convention of the State of Vermont, convened at Montpelier on the 21st day of February, A. D. 1822, and ending on the 23d of the same February, as prepared for publication by order of said Convention.

Attest, WILLIAM A. GRISWOLD, *Secretary*